



California Fair Political Practices Commission

March 9, 1988

David Besbris
1130 2nd St.
Manhattan Beach, CA 90266

Re: Your Request for Advice
Our File No. I-88-096

Dear Mr. Besbris:

You have written for advice concerning use of the City of Manhattan Beach seal by Mayor Holmes. You are concerned that it seems improper for Mayor Holmes to use the seal on a letter expressing his views on an initiative.

The Fair Political Practices Commission is responsible for interpreting and enforcing the provisions of the Political Reform Act.^{1/} The Act does not regulate the use of city seals in the manner described in your letter. Therefore, we are unable to provide advice on this subject.

We appreciate your interest in the Commission. If we may be of assistance in the future, please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:mek:jaj

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted.

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1130 2nd St.
Manhattan Beach, CA 90266

March 1, 1988

Cathy Donovan, Legal Counsel
Fair Political Practice Commission
P.O. Box 807
Sacramento, CA 95804-0807

Dear Ms. Donovan:

Many thanks for giving me several cases re using government letter head stationary for personal gains. I was unable to find a case that would apply to Mayor Holmes, who used the city/seal dated 12 January, 1988.

It is obvious that the intent of this letter was to imply that the total council of Manhattan Beach concurs with Holmes' views.

I would appreciate any public laws, case histories that would allow public officials to use government stationary for personal gain.

A copy of Mr. Holmes' letter is enclosed. Thank you for your kind interest.

Sincerely,

David C. Besbris
David C. Besbris
Col. USAF Ret.



C.R. "Bob" Holmes, MAYOR
Larry Dougharty, MAYOR PRO TEM

COUNCILMEMBERS
Gil Archuletta
Jan Dennis
Connie Sieber

John Allan Lacey
CITY CLERK
Duncan Kelly
CITY TREASURER

January 12, 1988

Dear Friends and Community Leaders,

It's time for another in my occasional series of newsletters to my friends and supporters. As always I'll review recent events and give you information on upcoming happenings.

DON'T Sign the Initiative Petition

A small group of dissidents are presently circulating a petition to put the so-called Neighborhood Protection Initiative on the June ballot. **Don't sign this petition.** Community leaders such as Russ Lesser, Duncan and Margaret Kelly, Jack Cunningham, Larry Dougharty, Connie Sieber and I feel the initiative is **unfair** to nearly 1000 Beach Area residents, **misleading**, and **poorly thought out**. In short, it is a bad proposal and should not even be dignified with a place on the ballot.

This initiative would redefine the Beach Area by eliminating any homes East of Highland (south of Marine) and East of Alma (north of Marine) from what we all know to be the Beach Area (generally west of Valley Drive, Live Oak Park, Sandune Park, etc). Homes left out of their new definition of the Beach Area are located on small 30' x 90' lots with a 30' (three story) height limit. If you own a 3 story residence in the area it would become non-conforming. The initiative effectively downzones all R-2 and R-3 property in this area, as it is almost impossible to build 2 decent size units on a single lot with only one level above parking. You would in essence be limited to garage apartments. That would lead to a dramatic decrease in property values. It should be noted that none of the persons behind the initiative live in the affected area.

The proponents claim this initiative will stop over development and help traffic on Sepulveda Blvd. They raise the specter of El Segundo-type development. This is not possible. We presently have a 30' (three story) height limit in place and the design of any large project must be approved by the City Council. The initiative would actually penalize Sepulveda developments which provided more than the minimum parking in

structures. It's net effect with height limit and floor area ratio (F.A.R.) requirements would be to make Sepulveda the fast food and strip center ("mini mall") capital of the South Bay -- both high generators of traffic. I think Manhattan Beach deserves better!

Any building or structure other than in Manhattan Village or the new narrowly defined Beach Area would be limited to 26'. In the event of a devastating fire, earthquake or just old age, these structures could not be rebuilt in kind and would then be subject to the 26' height limit. This weekend take a look at your church or place of worship and see how tall it is. Proponents will tell you that residents or organizations can always seek a variance from the Board of Zoning Adjustment. What they don't tell you is that you would also need a General Plan amendment, and State law limits to only three the number of times per year the General Plan can be amended.

In order to qualify for the June 7th election the proponents must collect approximately 2300 valid signatures of registered Manhattan Beach voters. They must turn them in to the City Clerk for verification approximately February 1. The City Clerk has 30 days to validate or invalidate their petition. If it is valid, the City Council at its March 1 meeting would officially place the matter on the June ballot. Work hard, inform your friends and neighbors of the ill effects of this ill-conceived initiative. Don't pit neighbor against neighbor. Remember, even if your property isn't affected this time it could be your property next time and you would want people to be fair with you. **DON'T SIGN THE INITIATIVE PETITION.**

City Council School District Cooperation

The City Council and the Manhattan Beach City School District are close to concluding an Athletic Field Maintenance agreement that will benefit the schools and the residents. Under the terms of the proposed agreement, basically the City would take over maintenance and renovation of various school athletic fields. The District would continue to make them available after school hours, on weekends and holidays to organized youth sporting leagues and for other City-sanctioned recreational uses.

This agreement will be a real winner for the community. We will all have better quality playing fields for youth soccer, baseball, etc. At the same time the Manhattan Beach City School District will be relieved of the present maintenance expenses and can direct those funds to educational uses.

As a side note, it's not too late to contribute your California State Income Tax refunds most of us received last month to the School District. They'll appreciate it and your money will help a financially strapped district.

Underground Utility Update

In my last newsletter I reported that we were proceeding with our underground utility program after the Public Utility Commission reduced the tax on underground conversion projects from 68 to 28 percent. I was hopeful at the time that the entire tax would be eliminated. The good news is that on December 21 the Internal Revenue service removed the tax from underground conversion projects "where such relocation is undertaken for purposes of community esthetics and public safety." I am proud of the role that Manhattan Beach played in obtaining this ruling. In the League of California Cities' request to the IRS our model program was cited as an example of the beneficial projects that would be curtailed if the tax was kept in place. Special thanks should also go to Senator Bob Beverly who helped us at the State level, and Senator Pete Wilson who worked with us at the Federal level, as well as Councilman Larry Dougharty who has led the fight for Manhattan Beach.

The engineering work on the project is expected to be completed in June 1988. We will then go to bid. If the bids are in line with our original estimates, work could begin at the end of summer.

Hotel Sale Brings City \$570,000

The importance of the commercial sector in the vitality of our City was brought home last week when the City received a check for \$570,000 as a transfer fee in the sale of the Radisson Hotel. This money will allow us to do any number of things to enhance the quality of life for our residents – buy open space and maintain the school athletic fields, are some examples.

Manhattan Beach did not become the only beach city without financial problems by chance. Manhattan Beach City Councils have historically recognized the importance of the commercial sector for its contribution to city finances, and for the provision of goods, services, and employment opportunities to our residents. The Council majority has followed this same philosophy and encouraged a healthy balance between commercial and residential development. This has allowed the City to provide the highest level of service and the lowest tax rates among the Beach cities. This is an accomplishment of which we can all be proud. Russ Lesser and I were among the early supporters of a quality hotel in the Chevron Tank Farm.

Santa Monica Bay Pollution

As I reported in the last issue, in November, I introduced and the City Council passed a resolution condemning the actions of the City of Los Angeles in polluting the Bay. We called upon them to do everything in their power to preclude further spillage or controlled sewage release including adding new storage tanks to hold overflow and expediting planned sewer line projects.

I am pleased to say Hermosa Beach and others have joined our efforts. We will all work together to pressure Los Angeles to stop their pollution.

I hope you enjoyed this newsletter and found it informative. I'll put out one or two more during my term as Mayor. If there are any topics you want addressed in future issues, please drop me a line or give a call. I always welcome your thoughts. Just for the record, neither the typing, reproduction, or postage for this newsletter are at taxpayers' expense, with the exception of the one original sheet of stationery the first page was type on.

Best wishes to all for an enjoyable and rewarding New Year in the best City anywhere.

Sincerely,



C. R. Holmes
Mayor

P.S. Keep me posted on changes of address so I can keep the newsletter mailing list current. Also, if any friends or neighbors would like their names added, please let me know.

Lesser examples

It seems that all we read about lately in the papers is how Bob Holmes, Larry Dougharty and Connie Sieber are "pro-development" and Jan Dennis and Gil Archuleta are "pro-resident." These simplistic labels are not only damaging and misleading but incorrect.

What is pro-resident? If it means voting against almost all commercial projects that are proposed even though they are less intense than what presently exists on the land and meet all legal requirements of the city, then Dennis and Archuleta qualify. But is this really beneficial to the residents? One example: If one is aware of the problems Champion Chevrolet has had with nearby residents, it is clear that an auto dealer located next to residential property can cause problems. Yet, when the Coast Chrysler site was being recycled into The Residence Inn, a clearly less intense use next to single family homes, guess who opposed it? You're right, Dennis and Archuleta. They never said what type of commercial use they did want on that site, only that they were against The Residence Inn.

Personally, I can't think of a commercial project on Sepulveda Boulevard that has had less impact on the adjoining residential neighborhood so I label their vote anti-anything, not pro-resident

Another example: Dennis and Archuleta have voted against and/or criticized the Manhattan Village Shopping Center, the Manhattan Country Club and the Radisson Hotel almost every time they have been before the council on an issue. Due to their location and design, these businesses have very little impact on residential property and provide about 25 percent of the general fund money used to pay for police, fire, etc. Without these businesses, our city services would be substantially less or the residents' taxes much higher. It is not just a coincidence that Manhattan Beach is the only beach city without a city tax on all utility bills. Is it pro-resident to be anti-business? I don't think so.

Another example: When Williker's Restaurant, located one block from residential property, wished to open without providing the 30 off-site parking spaces required by their permit, they were turned down on a 3-2 vote. This action was a correct one, because without the parking spaces they could have had a very negative effect on surrounding neighbors. Who were the two who voted to let them open with substandard parking? Right again, pro-resident Archuleta and Dennis. This action dumbfounds me.

One more example: Three years ago, Dennis proposed and Archuleta seconded a moratorium on all construction other than single family residences until

the General Plan was completed (which hasn't happened yet). That ban on construction would have affected the entire beach area and many other multiple-family residential areas. These "pro-resident" people didn't seem to care about the hardship this would cause those affected residents.

Recently, Archuleta proposed reducing the height limit in the beach area to 26 feet which would just about accomplish the same thing as downzoning it to single-family residence. Again, apparently no concern about the hardship on those people. While there are many more examples, I think you get the idea.

Now, let's talk about Holmes, the "pro-development" councilman. To my knowledge, Bob has never voted to increase density, zoning or height limits during his tenure on the council. A few examples of legislation he has supported, however, include reducing the commercial height limit downtown from three stories to two, banning condominiums from walk streets in medium density areas, reducing the maximum height limit and number of stories in the beach area, re-zoning Sepulveda from straight commercial to requiring a CUP for all large projects to give them public review, signing an agreement with TRW reducing their allowable density by over 50 percent and creating the beautiful Marine Avenue Park (Ms. Dennis, by the way, voted against this agreement and against the funding for the park. Anti-park is pro-resident?), and many more.

Bob has supported commercial projects that were legal in every way, such as the Residence Inn and the Radisson Hotel, because he recognizes that a viable commercial district is vital to a healthy city. If we must label people, I think it would be more accurate to label Holmes, Dougharty and Sieber pro-fairness, pro-balance and pro-future and label Dennis and Archuleta pro-selfishness and pro-"I've got mine - too bad for you."

Russ Lesser
Manhattan Beach

Look before you sign

During the next few weeks, a group of people will be soliciting signatures for a ballot initiative that goes by the lofty title, "The Neighborhood Protection Initiative." After examining a draft copy, it is now clear to me who is being protected and who is being victimized by the provisions of this initiative.

This document calls for a 26-foot height limit on all residential and commercial structures in specified areas of the city. There already exists a 26-foot height limit on most of the residential property within the boundaries described in the initiative. In Area District 3 (i.e., the beach area), however, a substantial amount of property will be placed into non-conforming status if this initiative is adopted by the voters. The R-2 and R-3 zoned property in the affected areas will be effectively downzoned by the provisions of this initiative since few economically viable projects would be possible on these properties under the proposed height limitations. This will discourage the recycling and replacement of substandard housing and eventually lead to slum-like neighborhoods.

A similar situation would exist along Sepulveda Boulevard where a 26-foot height limit would essentially eliminate any incentive to recycle substandard commercial property. For some inexplicable reason that defies all logic, a few Oak Avenue residents believe that the preservation of substandard commercial property along Sepulveda is somehow in their best interest.

A close examination of the proposed initiative would suggest that a few people might benefit from its passage. For example, the former president of RAMB, who lives in an R-1 zone directly across the street from an R-2 zone that is adversely affected by this initiative, would achieve her goal of effectively downzoning this area. During the General Plan hearings before the Planning Commission and the City Council, she and her followers made an unsuccessful attempt to have their neighbors' property downzoned. The proposed plan would effectively downzone the area that was targeted by this group.

The spokesman and one of the backers of this initiative lives in El Porto in one of the densest and most intensely developed parcels of land in town. Of course, he has wisely chosen to exempt this property from the initiative. Instead, he is advocating the restriction of property rights on the property of other residents while hiding behind the banner labeled "pro-resident."

We will soon be descended upon at supermarkets, libraries and our front doors by the backers of this initiative who will seek our signatures on their petitions. Take time to understand the details of their proposal. Upon close scrutiny, this initiative appears to benefit the self-interest of a few at the expense of many. And you may just be one of the "many."

Ray Golik
Manhattan Beach

The expense of many

Soon you will be asked to sign an initiative which will supposedly protect

our neighborhoods. What it really does is the following: 1) It has no effect in any way on most of the community; 2) It directly benefits the people behind the initiative; 3) It dramatically hurts many of your friends and neighbors by indirectly downzoning their property.

The best example of this is the new definition of the "beach area." The beach area is now west of Alma north of Marine and west of Highland south of Marine. All of the people east of Highland in the south part of town and east of Alma in the north part of town are having their 30-foot height limit reduced. While this may not be very important in the R-1 zones, it has the effect of downzoning R-2 and R-3 property, because it would be almost impossible to build two or three decent sized units on an R-2 or R-3 lot if this initiative passes. The people who chose to live on Highland Avenue and accept the traffic noise in exchange for the multiple zoning are being seriously damaged. These lots facing west will be limited to two stories while their neighbors directly to the west will be allowed three. Where is the logic in that? Also, why should the lots on the east side of Highland north of Marine be allowed three stories, while the identically sized lots south of Marine on Highland only be allowed two stories?

Manhattan Beach has always enjoyed the reputation as the finest city in the South Bay. Most of the people I know are caring people who are concerned about what is fair to other people, not just themselves. This type of initiative,

which benefits a few at the expense of many, has no place in our fine city. I encourage you not to sign it.

Samuel T. Merrell
Manhattan Beach



California Fair Political Practices Commission

March 8, 1988

David C. Besbris
Colonel USAF Retired
1130 - 2nd Street
Manhattan Beach, Ca 90266

Re: 88-096

Dear Colonel Besbris:

Your letter requesting advice under the Political Reform Act was received on March 7, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, we will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
General Counsel

DMG:plh